GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

School Education -Regularisation of vocational instructors-Counting of the pre-regularization service rendered by the vocational instructors for purpose of pension &pensionary benefits- Orders of the APAT in O.A. No.2889, dated 27-04-2017- Orders – Issued.

SCHOOL EDUCATION (PROG.I) DEPARTMENT

G.O.Ms.No.179 **Dated:** 18.11.2022

Read the following :-

1. G.O.Ms.No.31, SE (Prog.I) Department,dated13-02-2009
2. G.O.Ms.No.84, SE (Prog.I) Department,dated 24-07-2009
3. Orders of the Hon'ble APAT in OA No.8904/2011, dated 24-09-2014
4. Proceeding vide Rc.No.1225/Estt.2014-5/dated 08-01-2015 of Commissioner of School Education
5. Orders of the Hon'ble APAT in OA No.2889/2015, dated 27-04-2017
6. Orders of the Hon'ble High Court, dated 15-10-2019 in W.P.No.1425/2019 filed by the Government.
7. Common orders of the Hon'ble High Court, dated 20-01-2020 in W.P.973/2020 and batch cases.
8. Contempt Case No. No.607/2020 in W.P.No.973 of 2020 & (17) batch cases filed by vocational instructors.
9. SLP (Civil) Diary No.7474/2020 before Hon'ble Supreme Court against the orders of High Court
10 M.A. Diary No.26869 of 2022 in SLP (C) Diary No.7474 of 2020.

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ORDER:

The Government of Andhra Pradesh have introduced the vocational studies programme in the Government schools. (1030) part time vocational instructors were engaged as part of the programme. Amongst them, after the bifurcation of the State in the year 2014, (532) vocational instructors belong to the State of Andhra Pradesh.

2. The aforementioned (532) vocational instructors were initially appointed on various dates between the academic years of 1984-1989, on a purely part time basis, & subject to the condition that their services shall be terminated after 10 months in an academic year & that they will be re-engaged again at the beginning of the next academic year.

3. In the above process, while re-engaging the services of the part time vocational instructors on contract basis for the academic year 2008-09, the Government of AP vide the G.O.Rt.No.505, School Education (Prog.I) Department, dated 17-7-2008 while fixing the remuneration of Rs.3,500/- has directed to obtain an undertaking from the part-time vocational instructors that they shall have no right to claim the regularization of their services at present or in the future.

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4. Several representations were made by the vocational instructors to regularize their services in the existing craft teacher's vacancies. The representations were not acted upon by the Government as the same was not permissible under provisions of Act 2 of 1994.

5. Subsequently, after the consideration of the request for regularisation at various levels, the Government have finally issued the orders vide the G.O.Ms.No.31 School Education (Prog.I) dated 13-2-2009 &G.O.Ms.No.84, SE (Prog.I) Department, dated 24-07-2009 for the regularization of the services of (1,030) part-time vocational instructors, who were re-engaged in the schools in the state for the academic year 2008-09, duly suppressing (1,030) vacant craft teacher posts w.e.f. the date of issue of the orders.

6. The above individuals have filed O.A.No.8904/2011, dated24-09-2014, seeking a direction to count service for notional increments from the date of 1st appointment. In the aforementioned O.A., the Hon'ble A.P.A.T.in its order dated 24-09-2014 has passed orders as extracted below.

> *"Since the applicants are seeking to count the service rendered by them on temporary basis only for the purpose of pension and nothing else and also keeping in view of the above referred order of the Hon'ble High Court, I am inclined to grant relief to the applicant to the extent of counting of their past service prior to their regularization dated 13-02-2009 for the purpose of pension, therefore there shall be a direction to the respondents to pass appropriate orders keeping in view the above observations, for counting the past service rendered by the applicants prior to their regularization for the purpose of pensioner benefits."*

7. The Government in circular Memo. No.573/225/A3/PC-III/97,Finance & Planning Department, dated 1-9-1997 clearly states that, *"cases for counting of service for pension and any other purposes for the period prior to the effective date of regularization cannot be acted upon.*

8. The Vocational Instructions only drawn consolidated pay as part time vocational instructor and as they were not appointed either temporary or substantive manne, their request for regularisation i.e., counting of part time service for purpose of pension is against to the Rules. The part time service shall not be counted as regular service their Original appointments were not against the sanctioned posts.

9. In pursuance to the orders dated 24-09-2014 in O.A.No.8904/2011, the Commissioner of School Education has examined the rules stated at para 7 & 8 and issued rejection orders vide Rc.No.1225/Estt.4-1/2014-5, dated 08-01-2015.

10. Further, in the reference 4th read above, the Hon'ble APAT, on 27-04-2017, has disposed OA No. 2889/2015 & batch cases, filed by the vocational instructors,by passing the orders extracted below:

> *"Having regard to the facts and circumstances obtaining in the case and for foregoing reasons, as the applicants were appointed initially on Part-Time basis as Vocational Instructors by the District Selection Committee and thereafter they were paid salary on consolidated basis and regularized their services through G.O. Ms. No. 31, dated13.02.2009 and as per the judgments referred to supra, it clear that irrespective of service*

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either temporary or part-time on consolidated pay or daily wage basis are followed by regularization, they are entitled for counting their service rendered prior to the date of regularization for the purpose of pension. In view of the same, the impugned orders issued in proceedings Rs. No. 1225/Estt.4-1/2014-5, dated 08.01.2015 in all these OAs are liable to be set aside and are hereby set aside and further the respondents are directed to pass appropriate orders within a period of eight weeks from the date of receipt of the order. The OAs are disposed of accordingly with the above directions. VMA stand closed. No costs".

11. The Government have filed W.P.No.1425/2019 before the Hon'ble High Court against the above orders of the APAT in OA No.2889/2015, dated 27-04-2017. The Hon'ble High Court has passed orders on 15-10-2019 in the above W.P., observing that" *we find no grounds to interfere with the impugned order and the W.P. is liable to be dismissed."*

12. The Hon'ble High Court in its common orders, dated 20-01-2020 in W.P. No.973/2020 and batch of the cases filed by the Vocational Instructors, has passed certain orders as extracted below:

"For the aforesaid reasons, these W.P.'s are disposed of directing the respondents to implement the orders of APAT Dt:27.04.2017 in O.A.No.2889, 2890, 2891, 2892, 2893, 2894, 2895,2896,2897,2898,2899,2900,2901,2902,2903,2904,2905,2906,2907 of 2015 and O.A.No.2310 of 2015 with V.M.A. No.655 of 2015 within a period of 3 months from the date of receipt of a copy of this order. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stand closed."

13. Aggrieved by the above orders, the Government have filed the S.L.P. (Civil) Diary No.7474/2020. The Hon'ble Supreme Court has passed orders on 08-02-2021 in the above S.L.P. observing as follows.

"Delay condoned.

We are not inclined to interfere with the order passed by the High Court. The special Leave Petition is dismissed accordingly. Pending application(s), if any, stand disposed of."

14. Subsequently, the vocational instructors have filed C.C.No.607 of 2020 & batch cases, for not implementing the orders of the APAT in OA No.2889/2015, dated 27-04-2017 read with common orders dated 20-01-2020 in W.P. No.973/2020 and batch cases.

15. In the judgments referred to supra, the courts have ordered that the petitioners are entitled for counting their service rendered prior to the date of regularization for the purpose of pension. The date of regularisation of the petitioners falls in various dates after 13-2-2009.

16. In the meantime, adopting the National Pension Scheme (NPS) framework of the Government of India, the Government of Andhra Pradesh has implemented the National Pension Scheme(NPS)/Contributory Pension Scheme(CPS) w.e.f. 1-9-2004 & this scheme has replaced the earlier framework of the Andhra Pradesh Revised Pension Rules, 1980.

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17. Under NPS/CPS, the contribution of employee & employer (Government) gets credited to the PFRDA& the PFRDA in turn invests the same in market instruments/securities as per the guidelines of the National Pension Scheme. Based on the unit value, the accumulated corpus will be returned to the employee at the time of retirement as per the norms specified in the agreement, and part of the same will be deployed for the purchase of annuities.

18. Since, the services of the vocational instructors were regularised after the onset of the NPS scheme, they were allocated PRAN number as subscribers and they have made their contribution to the Fund corpus & the Government has also contributed it's share.It is not possible for the Government to bring back the amounts deposited under the CPS with the PFRDA to its account. Further, as several of the vocational instructors have crossed the age of retirement age, they are eligible to withdraw &receive the accumulated corpus & annuities from the PFRDA.

19. The framework of the National Pension Scheme (NPS)/ Contributory Pension Scheme (CPS) being implemented w.e.f. 01-09-2004 is at variance with the earlier regime of Andhra Pradesh Revised Pension Rules, 1980.The former is a defined contribution scheme, which is contributory in nature, the contributions deployed by the PFRDA with fund managers and in market instruments & the pay-out-based on the returns to the corpus & the annuities purchased. The latter is a defined benefit scheme, non-contributory in nature & the pay-out made from the State budget. Therefore, several complexities & technical difficulties have emerged in the process of implementing the orders of the Hon'ble APAT, which granted the relief of *"counting of their past service prior to their regularization dated 13-02-2009 for the purpose of pension"*

20. In the process of implementation of the orders of the Hon'ble APAT, it was also noted that, in the event that the impugned order were to be implemented, it would tantamount to making the petitioners entitled to benefits under the Old Pension Scheme, even though their services were regularised on 13-02-2009 i.e. the date on which the Contributory Pension Scheme only was applicable to the State Government employees. It is observed that providing the benefits of the Old Pension Scheme to the vocational instructors, who are regularised after 1-9-2004 i.e. the date of implementation of the Contributory Pension Scheme, while denying the same to the persons appointed by regular recruitment process in the various positions in the Government after1-9-2004, would be discriminatory.

21. Further, in terms of the financial implications, the implementation of the benefits of the Old Pension Scheme to the (532) vocational instructors would lead to an outgo of around Rs 500 crores from the State exchequer over a period of time.

22. Considering the multiple ramifications of the orders of the APAT in OA No.2889/2015, dated 27-04-2017 read with the common orders dated 20-01-2020 in W.P. No.1425 /2019, WP No.973 of 2020 and batch, which was upheld in SLP (C) No.7474 of 2020 dated 08-02-2020, the Government has filed MA (Dairy) No.26869 of 2022 in SLP (C) Diary No.7474 of 2020 on 28.08.2022. However, same was dismissed as lodged.

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23. After a careful examination of the totality of the facts & circumstances as stated supra, the financial and the legal implications of the case, & duly considering the pendency of CC No. 607 of 2020 & the dismissal of MA (Dairy) No.26869 of 2022 in SLP (C) Diary No.7474 of 2020 & in deference to the orders of the Hon'ble APAT & the Hon'ble High Court, the Government hereby order the following.

(a) To implement the orders of APAT in OA No.2889/2015, dated27-04-2017 read with the common orders dated 20-01-2020 in W.P. No.1425 /2019, WP No.973 of 2020 and batch, which was upheld in SLP (C) No.7474 of 2020 dated 08-02-2020.

(b) The CDSE is permitted to count the pre-regularized service rendered by the vocational instructors for the purpose of pensionary benefits in consultation with the PFRDA& the Finance Department.

(c) The above orders are subject to review of similar cases pending in the Honourable Supreme Court of India in the SLP No.13813 of 2018 & batch, the finalization of the issue by the Government of Telangana, since the orders in OA No.8904/2011 & OA No.2889/2015, were issued in the combined state of Andhra Pradesh and the petitioners were pertain to both the states of Andhra Pradesh and Telangana.

(d) The above orders shall be subject to any other legal/legislative remedies available to the Government.

S.No	CC No	WP No	Date of Order	Name of the Petitioner
1	607/2020	WP No. 1049/2020	13-8-2021	Sri I. Raghavaiah
2	608/2020	WP No. 1011/2020	13-8-2021	Sri T. Lakshminarayana
3	609/2020	WP No. 1044/2020	13-8-2021	Sri Ch. Sriramalal Vara Prasad
4	610/2020	WP No. 1015/2020	13-8-2021	Sri Y. Sivaiah
5	611/2020	WP No. 975/2020	13-8-2021	Sri N.C. Maheswara Reddy
6	612/2020	WP No. 1041/2020	13-8-2021	Sri V. Yedkondalu
7	613/2020	WP No. 977/2020	13-8-2021	Ms. K. Uma Sri
8	643/2020	WP No. 132/2020	13-8-2021	Ms.B.V. RatnaKmari
9	682/2020	WP No. 1036/2020	13-8-2021	Sri K. Srinivasa Reddy
10	1051/2020	WP No. 973/2020	13-8-2021	Sri P. Sivanarayanana
11	1052/2020	WP No. 21057/2019	13-8-2021	Sri V. Sai Varaprasad Rao
12	1053/2020	WP No. 1040/2020	13-8-2021	Ms. T.Vasumathi
13	1054/2020	WP No. 1021/2020	13-8-2021	Sri G.Venkateswar Rao
14	1055/2020	WP No. 21036/2019	13-8-2021	Ms. T.Jhansi Rani
15	1056/2020	WP No. 21039/2019	13.8.2021	Sri S.V.Rattaiah
16	1702/2021	WP No. 1560/2020	28-01-2020	J Lakshma Reddy
17	1703/2021	WP No. 1425/2019	15-10-2019	LB Krishna
18	1704/2021	WP No. 1035/2020	20-01-2019	Datla Kesava Murthy Raju

24. The Commissioner of School Education shall take further necessary action accordingly, in the matter.

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25. This order issues with the concurrence of the Finance Department vide their U.O.No.1483486/FIN01-HR/148/2021-HR-III dated 18-11-2022.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B. RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
The Commissioner of School Education, Ibrahimpatnam, Vijayawada.
Copy to:
The Finance(HR.III-Pension,GPF)Department
Sf/Sc

//FORWARDED:: BY ORDER//

SECTION OFFICER